

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1152**

State of Minnesota,
Respondent,

vs.

Abdirahim Ahmed Hassan,
Appellant.

**Filed May 30, 2023
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CR-21-7267

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Peter R. Marker, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Reilly, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges his judgment of conviction for felony domestic assault, arguing that the prosecutor committed reversible misconduct during closing argument. Because the prosecutor's statements were not misconduct, we affirm.

FACTS

Respondent State of Minnesota charged appellant Abdirahim Ahmed Hassan with felony domestic assault. The charge was based on an accusation made by the victim, M.M., that Hassan slapped, punched, and pushed her. Hassan denied the allegations. During closing arguments before the jury, defense counsel posited several questions aimed at attacking M.M.'s credibility, including "why do all of the critical facts in this case come from the one person with the most motivation and interest to not tell the truth?" During closing rebuttal, the prosecutor characterized some of defense counsel's questions as "victim blaming." The district court overruled the defendant's objection.

The jury found Hassan guilty of felony domestic assault, in violation of Minn. Stat. § 609.2242, subd. 4 (2018). The district court entered a conviction and imposed a presumptive 18-month sentence, stayed for three years of probation. Hassan appeals.

DECISION

Hassan claims that the prosecutor engaged in reversible prosecutorial misconduct during closing rebuttal by alleging that his attorney was "victim blaming." This, Hassan argues, was disparaging to the defense and incited the jury's passions. The record does not support Hassan's claim.

The supreme court "has repeatedly warned prosecutors that it is improper to disparage the defense in closing arguments or to suggest that a defense offered is some sort of standard defense offered by defendants when nothing else will work." *State v. Griesse*, 565 N.W.2d 419, 427 (Minn. 1997) (quotation omitted). But it has made clear that arguments that emphasize the central question of the case or defend a witness's credibility

do not constitute misconduct. *See State v. Carridine*, 812 N.W.2d 130, 148-49 (Minn. 2012) (concluding that emphasizing the lack of evidence supporting an affirmative defense was not misconduct); *State v. Jackson*, 773 N.W.2d 111, 124-25 (Minn. 2009) (concluding that responding to a suggestion that witnesses could not be trusted was not misconduct). “When assessing alleged prosecutorial misconduct during a closing argument, [appellate courts] look to the closing argument as a whole, rather than to selected phrases and remarks.” *State v. Graham*, 764 N.W.2d 340, 356 (Minn. 2009) (quotation omitted).

Considering the closing argument as a whole, we are unpersuaded that the prosecutor’s objected-to statements constituted misconduct. To begin, the references to “victim blaming” were a minor part of the state’s rebuttal. *See State v. Powers*, 654 N.W.2d 667, 679 (Minn. 2003) (concluding an improper two-sentence statement within a 20-page closing argument was not misconduct). There is no indication that the prosecutor’s comments distracted the jury from its fundamental role. *See State v. Coleman*, 560 N.W.2d 717, 721 (Minn. App. 1997) (concluding that characterizing a defendant as “shopping around for a defense” and deliberately trying to “mislead” the jury constituted prosecutorial misconduct because the comments diverted the jury’s attention from its fundamental role). Instead, the prosecutor’s closing rebuttal centered on acknowledging the inconsistencies in M.M.’s testimony and reminding the jury that “the law allows that if you have one witness who is credible, that is sufficient to meet the State’s burden” and “if you believe her, her testimony is enough.”

Further, the prosecutor’s references to victim blaming were not disparaging. *See State v. Salitros*, 499 N.W.2d 815, 818 (Minn. 1993) (noting that a prosecutor’s claim that

the offered defense is commonly employed when nothing else will work is disparaging to the defense); *State v. Williams*, 525 N.W.2d 538, 548-49 (Minn. 1994) (noting it is inappropriate to belittle the defense by suggesting that the defense is “the only defense that might work” (quotation marks omitted)). The prosecutor’s statements were not in response to Hassan’s theory of the case but, rather, were a response to the questions posited by Hassan’s defense counsel during his closing argument. The prosecutor began her rebuttal by stating that, of the ten questions posited by defense counsel during closing argument, “two of them are not relevant, seven of them involve victim blaming, but I’ll address the last one.” The last question asked—“why do all of the critical facts in this case come from the one person with the most motivation and interest to not tell the truth?”—and the prosecutor’s references to victim blaming are factually related to M.M.’s credibility who, Hassan argued, is “the one person with the most motivation and interest to not tell the truth.” Thus, the prosecutor did not commit misconduct because the statements responded to the questions Hassan’s defense counsel presented during his closing argument. *Carridine*, 812 N.W.2d at 148 (noting that a prosecutor does not commit misconduct by emphasizing the central question in the case during closing argument). Because the prosecutor did not commit misconduct, we do not address Hassan’s argument that it is not harmless. *See State v. McDaniel*, 777 N.W.2d 739, 753 (Minn. 2010) (noting two-tiered harmless-error test for objected-to prosecutorial misconduct and declining to decide if two-tiered approach remains valid).

Affirmed.